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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,427	12/15/2003	Jerry Dennis Sacks	1219.02	3965
29637 7590 07/31/2008 BUSKOP LAW GROUP, P.C. 4511 Dacoma Street HOUSTON, TX 77092				
EXAMINER				
PEACHES, RANDY				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
07/31/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/736,427

**Applicant(s)**

SACKS ET AL.

**Examiner**

RANDY PEACHES

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. ***Claims 1-21*** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al. (U.S. Patent Publication 2003/0020629 A1) in view of Bunte et al. (U.S. Patent Number 5,875,070) in further view of Connolly et al. (U.S. Patent Publication Number 2002/0017567 A1).

Regarding ***claim 1***, Swartz et al. discloses a system for product selection at a location comprising:

- a wearable wrist input/output unit (90), which reads on claimed "wearable mobile computer," hereinafter referenced as wearable mobile computer, with a memory and a processor (94). See paragraphs [0051 and 0085, FIGURES 3 and 8];
- bar code reader (92) in communication with the said wearable mobile computer (90). See paragraph [0085];
- a viewing and input component consisting of a member of the group:
  - a display integral with the wearable mobile computer. See FIGURE 5;
  - a tactile input device in communication with the wearable mobile computer. See paragraph [0104];

- a display screen that is a touch screen in communication with the wearable mobile computer; and
  - combinations thereof;
- a speaker, which reads on claimed "audio output device," in communication with the said wearable mobile computer;
- an headset (192), which reads on claimed "audio input device," in communications with the wearable mobile computer. See paragraph [0094];
- a printer in communications with the wearable mobile computer. See paragraph [0024];
- radio frequency identification (RFID) reader in communication with the wearable mobile computer. See paragraphs [0024 and 0017];
- wherein the wearable mobile computer is further adapted for communication between user and an order systems server (810) via base/transfer station (804). See FIGURE 7 and paragraphs [0022,0060 and 0063];
- wherein the order systems server is adapted for communication between the wearable mobile computer at least one base/data transfer station (804), which reads on claimed "external computer system." See paragraph [0062 and 0063].

However, Swartz et al. fails to clearly render support wherein the software, which controls the functions of the said wearable mobile computer, resides in the said memory. In addition Swartz et al. fails to clearly teach of a voice recognition software residing in the memory of the said wearable mobile computer and an order filing application software residing in the memory.

Bunte et al. teaches in column 8 lines 61-64 of a portable data terminal, which reads on claimed "wearable mobile computer," wherein a text-to-speech software resides in the memory, i.e. Flash memory, RAM, etc. In addition, Bunte et al. discloses of a customizable voice communication system residing in the said portable data terminal. Bunte et al. further discloses in column 9 lines 1 and 2 wherein the said memory may also function as a ROM storage for the voice communications system operating code, which is interpreted by the Examiner as software repository, capable of storing the software needed to provide the function of communicating text to speech and receiving communications from the user using the said customizable voice communication system of the said portable data terminal.

Therefore it would has been obvious to one of ordinary skill in the art at the time the invention was made to have Swartz et al. to include Bunte et al. in order to provide a portable data terminal, capable of collecting business related information by using various features locally installed in the said portable data terminal.

However, the combination fails to clearly render sufficient support whereby the mobile computer is further adapted for ***"directly communicating"*** with a user and an order system server.

Connolly et al. clearly teaches in FIGURE 16A and paragraphs [120 and 140], whereby a hand-held data collection terminal (5000) collects data and transmits the collected data via a radio frequency transceiver (5010) to a remote host or system manager (5020). Connolly et al. further teaches

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Swartz et al. and Bunte et al. to further include Connolly et al. in order to provide a system capable of directly sending data to a system manager/server (5000) for further processing.

Regarding **claim 2**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the bar code reader is either wired or wireless. See paragraph [0023].

Regarding **claim 3**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the wearable mobile computer is selected from the group: **a handheld computer, a PDA**, and a notepad computer. See paragraph [0093], specifically the last 4 sentences.

Regarding **claim 4**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the display is a member of the group: **LCD display**, a plasma display, a monochrome display, and a colored display. See paragraph [0085].

Regarding **claim 5**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the audio output device is a member of the group:

- a speaker disposed integrally with the wearable mobile computer, a headset with at least one earphone, and an external speaker. See paragraph [0094].

Regarding **claim 6**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the audio output device is either wired or wireless. See FIGURE 7

Regarding **claim 7**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the tactile input device is either wired or wireless. See paragraph [0024].

Regarding **claim 8**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the tactile input device is a keyboard. See paragraph [0104].

Regarding **claim 9**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose

wherein the text-to-speech software is adapted to convert text to an audio output. See paragraph [0098].

Regarding **claim 10**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the voice recognition software is adapted to convert an audio signal to text. See paragraph [0099 and 0101];

Regarding **claim 11**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the order filling applications software is adapted to manage a process for selecting product. See paragraph [0060].

Regarding **claim 12**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the radio frequency identification (RFID) reader is in wireless communication with the wearable mobile computer. See paragraphs [0024 and 0017];

Regarding **claim 13**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the RFID reader is a wireless reader of radio frequency identification data. See paragraphs [0024 and 0017] and FIGURE 17;



Regarding **claim 14**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the order systems server is selected from the group: **a Personal Computer**, a UNIX-based<sup>TM</sup> server, an NTTM server, a WINDOWS-based<sup>TM</sup> server, and a LINUX based server. See FIGURE 7 and paragraph [0062].

Regarding **claim 15**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the external computer system is selected from the group: **a Personal Computer**, a UNIX-based<sup>TM</sup> server, an NTTM server, a WINDOWS-based<sup>TM</sup> server, and a LINUX-based server. See FIGURE 7 and paragraph [0062].

Regarding **claim 16**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the audio input device is a microphone. See FIGURE 17 and paragraph [0099].

Regarding **claim 17**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the printer is in wired or wireless communications with the wearable mobile computer. See FIGURE 8 and paragraph [0085].

Regarding **claim 18**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 1**, Swartz et al. continues to disclose wherein the word product can mean an object, item, case, containing piece of equipment and any other item that can be selected.

Regarding **claim 19**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 15**, Swartz et al. continues to disclose wherein the external computer system is a member of the group: customer order system, a customer warehouse management system, loader system server, **an inventory control system and combinations thereof**. See FIGURE 7 and paragraphs [0022,0060 and 0063];

Regarding **claim 20**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 15**, Swartz et al. continues to disclose wherein the external computer is wirelessly connected to the order systems server. See FIGURE 7 and paragraphs [0022,0060 and 0063];

Regarding **claim 21**, as the combination of Swartz et al., Bunte et al. and Connolly et al. are made, the combination according to **claim 14**, Swartz et al. continues to disclose wherein the order systems server is wireless. See FIGURE 7 and paragraphs [0022,0060 and 0063];

### ***Response to Arguments***

Applicant's arguments with respect to **claims 1-21** have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDY PEACHES whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy Peaches/  
Examiner, Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617